

Applicants : Anne Marie Schmidt, et al.  
U.S. Serial No: 10/666,513  
Filed : September 19, 2003  
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#### **REMARKS**

Claims 2 and 15 are pending and under examination in the subject application. Applicants have herein amended claims 2 and 15 to introduce a format change. Applicants maintain that these amendments raise no issue of new matter. Accordingly, upon entry of this Amendment, claims 2 and 15 will be pending and under examination.

#### **The Claimed Invention**

This invention provides an isolated EN-RAGE peptide comprising the amino acid sequence of SEQ. ID. NO:2.

This invention further provides a composition comprising an EN-RAGE peptide and a pharmaceutically acceptable carrier, wherein the peptide comprises the amino acid sequence of SEQ. ID. NO:2.

#### **Rejection under 35 U.S.C. §101**

The Examiner provisionally rejected claim 2 under 35 U.S.C. §101 as allegedly claiming the same invention as claim 2 in U.S. Serial No. 10/665,867.

In response, and without conceding the correctness of the Examiner's rejection, applicants note that claim 2 of U.S. Serial No. 10/665,867 has been canceled via an Amendment in response to a June 29, 2005 Office Action filed with the U.S. Patent and Trademark Office on August 23, 2005. Accordingly, the rejection of claim 2 in the subject application under 35 U.S.C. §101 is moot.

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**Obviousness-Type Double Patenting Rejection**

The Examiner provisionally rejected claim 15 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claim 15 of U.S. Serial No. 10/665,867.

In response, and without conceding the correctness of the Examiner's rejection, applicants note that claim 15 of U.S. Serial No. 10/665,867 has been canceled via an Amendment in response to a June 29, 2005 Office Action filed with the U.S. Patent and Trademark Office on August 23, 2005. Accordingly, the rejection of claim 15 in the subject application under the doctrine of obviousness-type double patenting is moot.

**Rejection under 35 U.S.C. §112, Second Paragraph**

The Examiner rejected claims 2 and 15 under 35 U.S.C. §112, second paragraph, as allegedly indefinite.

Specifically, the Examiner alleges that the phrase "shown in SEQ. ID. NO:2" is unclear in specifying whether the phrase is directed to the full-length amino acid sequence of SEQ. ID. NO:2, or to a portion of SEQ. ID. NO:2. However, the Examiner concedes that if the claim language was amended to include the phrase "of SEQ. ID. NO:2", the rejection of claims 2 and 15 would be obviated.

In response, and without conceding the correctness of the Examiner's rejection, applicants note that claims 2 and 15, as amended, recite the phrase "of SEQ. ID. NO:2." Accordingly, applicants maintain that claims 2 and 15 satisfy the requirements

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of 35 U.S.C. §112, second paragraph.

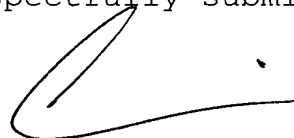
**Summary**

In view of the remarks made herein, applicants maintain that the claims pending in this application are in condition for allowance. Accordingly, allowance is respectfully requested.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

Respectfully submitted,



I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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10/11/03

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